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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,302	07/19/2001	Roberto A Macina	DEX-0180	6964
26259	7590	08/15/2005	EXAMINER	
LICATLA & TYRRELL P.C. 66 E. MAIN STREET MARLTON, NJ 08053			HOLLERAN, ANNE L	
			ART UNIT	PAPER NUMBER
			1643	
DATE MAILED: 08/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Advisory Action</i> <i>Before the Filing of an Appeal Brief</i>	Application No. 09/806,302	Applicant(s) MACINA, ROBERTO A	
	Examiner Anne Holleran	Art Unit 1643	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The rejection of claims 1, 11, 12, 15, 18 and 21 under 35 USC 103(a) as being unpatentable over the prior art is maintained for the reasons of record. Applicant argues that in ascertaining the differences between the prior art and the claims at issue, the prior art reference as a whole must be considered and asserts that what has not been considered in Lehrer is that for prostate cancer, Lehrer teaches that Lipophilin C expression is decreased. Therefore, applicant asserts that Lehrer teaches away from the the claimed inventions. This argument is not found persuasive. The claims pertaining to measurements made in cell or tissue samples have not been rejected. The claims that are rejected are those pertaining to or including the step of measuring bodily fluids. Therefore, these claims read on detection of metastasis, which is a method that Lehrer clearly teaches and suggests, despite showing that expression of Lipophilin C is decreased in prostate cancer cells. Lehrer clearly shows that expression of Lipophilin C in uterus and ovary is greater than that of white blood cells (see Figure 11A). Therefore, Lehrer's teaching that metastasis of uterine or ovarian cancer cells could be detected by measuring Lipophilin C expression in blood is supported despite the teaching that in prostate cancer cells, Lehrer teaches a decrease in Lipophilin C expression.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.

Alana M. Harris
 ALANA M. HARRIS, PH.D.
 PRIMARY EXAMINER
 08/11/2005